

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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WELLS FARGO BANK, N.A., AS
TRUSTEE FOR BANC OF AMERICA
MORTGAGE SECURITIES MORTGAGE
PASS THRU CERTIFICATES SERIES
2005-3,

Plaintiff,

v.

THE SPRINGS AT CENTENNIAL RANCH
HOMEOWNERS ASSOCIATION; and
SFR INVESTMENTS POOL 1, LLC,

Defendants.

Case No. 2:17-cv-01887-MMD-NJK

ORDER

This case arises out of a homeowners association's foreclosure sale of a Property¹ and involves the notice provisions applicable to the same under Nevada Revised Statutes ("NRS") Chapter 116. (See *generally* ECF No. 58.) The United States Court of Appeals for the Ninth Circuit reversed and remanded the Court's dispositive order, finding Wells Fargo's DOT continues to encumber the Property because the foreclosure sale violated the prior homeowners' bankruptcy stay—and was thus void. (ECF No. 118 at 3.) Before the Court is the parties' joint status report proposing next steps in this case (ECF No. 125), submitted in compliance with the Court's last two orders (ECF Nos. 121, 124). Because the Court agrees with Wells Fargo's proposal in the joint status report, and as further

¹The Property is the real property commonly known as 921 Oceanwood Avenue, N. Las Vegas, NV 89081, with the legal description of: Lot 174 of Centennial Bruce North 40-Unit 2, as shown by map thereof on file in Book 112 of Plats, Page 90, in the Office of the County Recorder, Clark County, Nevada (APN: 124-23-411-010). (ECF No. 119 at 2.) Plaintiff Wells Fargo Bank, N.A., Mortgage Pass Thru Certificates Series 2005-3, agent of Banc of America Mortgage Securities, is the assignee of a Deed of Trust ("DOT") on the Property, as indicated by a document recorded with the Clark County Recorder as Instrument No. 20141201-0000700. (ECF No. 58 at 4.)

1 explained below, the Court will direct judgment in Wells Fargo's favor and close this case
2 again.

3 In the joint status report, Wells Fargo contends in relevant part that the Court should
4 direct entry of judgment in its favor because the Ninth Circuit expressly held the pertinent
5 foreclosure sale was void and the Court must follow the Ninth Circuit's mandate. (ECF No.
6 125 at 1-4.) Defendant SFR Investments Pool 1, LLC requests the Court stay entry of any
7 judgment consistent with the Ninth Circuit's mandate until after it completes the process
8 (apparently recently begun) of seeking retroactive annulment of the pertinent automatic
9 bankruptcy stay from the bankruptcy court. (*Id.* at 5.) The Springs at Centennial Ranch
10 Homeowners Association agrees with SFR's position. (*Id.* at 6.) As noted, the Court agrees
11 with Wells Fargo.

12 The Court will direct entry of judgment in Wells Fargo's favor. First, no party
13 contends any further litigation is necessary in this case. Second, SFR has not yet gotten
14 the pertinent bankruptcy stay retroactively annulled. Third, and most importantly, the Court
15 must proceed in accordance with the Ninth Circuit's mandate. The Ninth Circuit was clear
16 that the pertinent foreclosure sale was void. (ECF No. 118.)

17 It is therefore ordered that the property located at 921 Oceanwood Ave., N. Las
18 Vegas, NV 89086, APN 124-23-411-010, remains encumbered by the Deed of Trust
19 recorded in the Clark County Recorder's Office as Instrument Number 20050124-
20 0004216 (again, the "DOT").

21 It is further ordered that the Trustee's Deed Upon Sale recorded in the Clark County
22 Recorder's Office as Instrument Number 20120724-0001880 is subordinate to the DOT.

23 It is further ordered that Wells Fargo prevails on its first cause of action for quiet
24 title/declaratory judgment against Defendants and on all claims Defendants asserted
25 against Wells Fargo.

26 It is further ordered that Well's Fargo's claim for injunctive relief against SFR is
27 dismissed as moot.

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1 It is further ordered that Wells Fargo's motion to remove Darren T. Brenner, Esq.,
2 Jamie K, Combs, and Rex D. Garner, from the electronic service list (ECF No. 126) is
3 granted.

4 The Clerk of Court is directed to enter judgment accordingly and close this case.

5 DATED THIS 12th Day of December 2023.

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8 MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE